

COMMISSION ON STATE MANDATES

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March 29, 2013

Mr. Dennis Meyers
Assistant Executive Director
Governmental Relations
California School Boards Association
3251 Beacon Blvd.
West Sacramento, CA 95691

And Affected State Agencies and Interested Parties (See Mailing List)

Re: **Denial of Request for Postponement of Hearing on Parameters and Guidelines**
California Public Records Act, 02-TC-10 and 02-TC-51
Government Code Section 6253, et al.
County of Los Angeles and Riverside Unified School District, Claimants

Dear Mr. Meyers:

The Commission on State Mandates (Commission) has received the California School Boards Association (CSBA) request to postpone the April 19, 2013 hearing of the above matter. Your request seeks a postponement of the hearing "to file an amended set of parameters and guidelines for the Public Records Act (PRA) test claim to include a Reasonable Reimbursement Methodology (RRM)." Your letter further states that "there exists a reasonable opportunity to develop a proposed RRM with the Department of Finance and other local government associations, including the CSAC, the League of Cities, and the CA Special Districts Association." For the reasons below, your request for a postponement of the hearing on these parameters and guidelines is denied.

As was mentioned in the March 18, 2013 denial of the California State Association of Counties' (CSAC's) request to postpone the hearing to develop an RRM with Finance, section 1183.01(c)(2) of the Commission's regulations provides that any "party" may request the postponement of a hearing on parameters and guidelines (Ps&Gs). The Commission's regulations define "party" to mean the test claimant(s), the Department of Finance (Finance), Office of State Controller, or affected state agency. (2 CCR 1181.1(m).) There is no authority for *interested* parties to request a postponement of a hearing, although *interested* parties may request an extension of time to comment when it does not impact the scheduled hearing of a matter. (2 CCR 1183.01(c)(1).)

While the executive director has authority to postpone a hearing on her own motion, that authority is only available for good cause shown. (2 CCR 1183.01(c)(2) and(3).) The executive director also has a statutory duty to "expedite all matters within the jurisdiction of the commission" (Gov. Code § 17530) and, given the Commission's considerable backlog, fulfilling this duty is of paramount importance.

Though reimbursement for this program is a matter of statewide concern, there has been ample opportunity for the statewide associations to participate in this matter. However, no comments have been filed by either CSAC or CSBA. In addition, this matter was set for hearing when the draft was issued on February 13, 2013, and neither the test claimants to this matter, Los Angeles County and Riverside Unified School District (both of whom are members of CSAC and CSBA, respectively), nor Finance has

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requested an extension of time for the purpose of coming to an agreement on a reasonable reimbursement methodology (RRM).

Please also note the statutory and regulatory limitations for adopting a joint RRM or an RRM included in original Ps&Gs. A joint RRM is governed by Government Code section 17557.1, which specifies that, within 30 days of the issuance of the test claim decision, only *the test claimant(s) and the Department of Finance* may notify the executive director of the Commission of their intent to follow the process to develop a joint RRM. The test claim decision on this matter was issued May 26, 2011. Notification has not been filed in this case and the time has now passed for utilizing the joint RRM process.

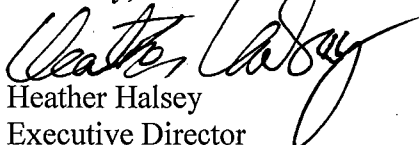
Under Government Code section 17557 and section 1183.131 of the Commission's regulations, any party or interested party may propose consideration of an RRM to be included in original Ps&Gs at any time up until the close of the comment period on the draft Ps&Gs and statement of decision on the Ps&Gs. In this case, the comment period closed on March 6, 2013, and no comments or proposed RRMs were received by either CSAC or CSBA. Your request for postponement only states that "there exists a reasonable opportunity to develop a proposed RRM." Therefore, granting this request, without evidence showing a likelihood of achieving the stated objective, would only delay this claim further. For this reason, good cause has not been established for the postponement of the hearing on the Ps&Gs, and the request is denied.

There are continuing options available for the development of an RRM after original Ps&Gs are adopted. Original Ps&Gs may later be amended to include an RRM developed by an interested party for some or all of the activities, pursuant to Government Code sections 17518.5 and 17557(d)(2)(C). Government Code section 17557(d)(1) provides, however, that only "[a] local agency, school district, or the state may file a written request with the commission to amend the parameters or guidelines." That section further provides that "A parameters and guidelines amendment submitted within 90 days of the claiming deadline for initial claims, as specified in the claiming instructions pursuant to Section 17561, shall apply to all years eligible for reimbursement as defined in the original parameters and guidelines..." Therefore, if an agreement is reached with Finance on an RRM and a local agency, school district, or the state is willing to file a parameters and guidelines amendment to include an RRM in the Ps&Gs within 90 days of the claiming deadline for initial claims, which is roughly seven months from the date the original Ps&Gs are adopted, the RRM can relate back to the beginning of the period of reimbursement identified in the original Ps&Gs. If an agreement on an RRM cannot be reached, or the RRM does not meet the substantial evidence requirements, there will be no further delay on this matter and all eligible claimants may seek reimbursement based on their actual costs under the parameters and guidelines.

The Commission welcomes and highly values the active participation of statewide associations in the matters under its consideration. However, approving this request to postpone the April 19, 2013 hearing would be prejudicial to the parties' interest in a timely resolution. Unless a request to postpone the hearing on this matter is made by one of the parties to this claim in accordance with section 1183.01 (c)(2) of the Commission's regulations, I do not intend to grant a hearing postponement.

Please contact Jason Hone at (916) 323-3562 if you have any questions.

Sincerely,


Heather Halsey
Executive Director